

9 FAM 41.122 REVOCATION OF VISAS

(TL:VISA-9; 3-23-88)

(a) Grounds for Revocation by Consular Officers

(TL:VISA-9; 3-23-88)

A consular officer is authorized to revoke a nonimmigrant visa issued to an alien if:

(1) The officer finds that the alien was not, or has ceased to be, entitled to the nonimmigrant classification under INA 101(a)(15) specified in the visa or that the alien was at the time the visa was issued, or has since become, ineligible under INA 212(a) to receive a visa;

(2) The visa has been physically removed from the passport in which it was issued prior to the alien's embarkation upon a continuous voyage to the United States; or

(3) For any of the reasons specified in paragraph (h) of this section if the visa has not been revoked by an immigration officer as authorized in that paragraph.

(b) Notice of Proposed Revocation

(TL:VISA-9; 3-23-88)

When consideration is being given to the revocation of a nonimmigrant visa under paragraph (a)(1) or (a)(2) of this section, the consular officer considering that action shall, if practicable, notify the alien to whom the visa was issued of intention to revoke the visa. The alien shall also be given an opportunity to show why the visa should not be revoked and requested to present the travel document in which the visa was originally issued.

(c) Procedure for Physically Canceling Visas

(TL:VISA-2; 8-30-87)

A nonimmigrant visa which is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa. The cancellation shall be dated and signed by the officer taking the action. The failure of the alien to present the visa for cancellation does not affect the validity of action taken to revoke it.

(d) Notice to Carriers

(TL:VISA-2; 8-30-87)

Notice of revocation shall be given to the master, aircraft captain, agent, owner, charterer, or consignee of the carrier or transportation line on which it is believed the alien intends to travel to the United States, unless the visa has been physically canceled as provided in paragraph (c) of this section.

(e) Notice to Department

(TL:VISA-9; 3-23-88)

When a visa is revoked under paragraph (a)(1) or (a)(2) of this section, the consular officer shall promptly submit notice of the revocation, including a full report on the facts in the case, to the Department for transmission to INS. A report is not required if the visa is physically canceled prior to the alien's departure for the United States except in cases involving A, G, C-2, C-3, NATO, diplomatic or official visas.

(f) Record of Action

(TL:VISA-9; 3-23-88)

Upon revocation of a nonimmigrant visa under paragraph (a)(1) or (a)(2) of this section, the consular officer shall complete for the post files a Certificate of Revocation by Consular Officer which includes a statement of the reasons for the revocation. If the revocation is effected at other than the issuing office, a copy of the Certificate of Revocation shall be sent to that office.

(g) Reconsideration of Revocation

(TL:VISA-9; 3-23-88)

(1) The consular officer shall consider any evidence submitted by the alien or the alien's attorney or representative in connection with a request that the revocation be reconsidered. If the officer finds that the evidence is sufficient to overcome the basis for the revocation, a new visa shall be issued. A memorandum regarding the action taken and the reasons therefor shall be placed in the consular files and appropriate notification shall be made promptly to the carriers concerned, the Department, and the issuing office if notice of revocation has been given in accordance with paragraphs (d), (e), and (f) of this section.

(2) In view of the provisions of sec. 41.107(d) providing for the refund of fees when a visa has not been used as a result of action by the U.S. Government, a fee shall not be charged in connection with a reinstated visa.

(h) Revocation of Visa by Immigration Officer

(TL:VISA-9; 3-23-88)

An immigration officer is authorized to revoke a valid visa by physically canceling it in accordance with the procedure prescribed in paragraph (c) of this section if:

(1) The alien obtains an immigrant visa or an adjustment of status to that of permanent resident;

(2) The alien is ordered excluded from the United States pursuant to INA 235(c) or 236;

(3) The alien is notified pursuant to INA 235(b) by an immigration officer at a port of entry that the alien appears to be inadmissible to the United States and the alien requests and is granted permission to withdraw the application for admission;

(4) A final order of deportation or a final order granting voluntary departure with an alternate order of deportation is entered against the alien pursuant to INS regulations;

(5) The alien has been permitted by INS to depart voluntarily from the United States pursuant to INS regulations;

(6) A waiver of ineligibility pursuant to INA 212(d)(3)(A) on the basis of which the visa was issued to the alien is revoked by INS;

(7) The visa is presented in connection with an application for admission to the United States by a person other than the alien to whom it was issued; or

(8) The visa has been physically removed from the passport in which it was issued.

9 FAM 41.122 Related Statutory Provisions

For provisions of INA 212(d)(3)(A), see sec. 9 FAM 41.121 Related Statutory Provisions).

INA 221(i)

(TL:VISA-2; 8-30-87)

(i) After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: Provided, That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 273(b) for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation.